

Message Text

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55

ACTION ABF-01

INFO OCT-01 EUR-12 ISO-00 CPR-01 L-02 CIAE-00 INR-07

NSAE-00 FS-01 /025 W

----- 055006

R 261230Z FEB 75

FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO AMEMBASSY BERLIN UNN

SECSTATE WASHDC 0527

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E.O. 11652: N/A

TAGS: ABUD, GW, WB

SUBJECT: RELIEF FROM VALUE ADDED TAX (VAT)

REF: A) BONN 02565 B) BERLIN 5212 C) BONN 02046

1. MISSION BELIEVES THAT STATEMENT SUGGESTED BY KLEZATH PARA ONE REFTEL A) AS MEANS OF ENABLING MISSION TO MAKE PURCHASES FOR EMBASSY BERLIN FREE OF VAT WOULD BE MORE RESTRICTIVE THAN EXEMPTION FROM VAT WHICH WE CURRENTLY ENJOY. AT PRESENT, FOLLOWING STATEMENT IS TYPED ON MISSION PURCHASE ORDERS: QUOTE THE ABOVE NET PRICE IS EXEMPTED FROM GERMAN TURNOVER TAX ACCORDING TO STEUER-UN ZOLLBLATT, BERLIN, 1968, SEITE 215 AND 624. UNQUOTE THE TAX NOTICES CONTAINED IN PAGES 215 AND 624 OF THE TAX AND CUSTOMS BULLETIN, BERLIN, 1968, DO NOT PLACE ANY RESTRICTION ON THE END USE OR DISPOSITION OF GOODS AND SERVICES PURCHASED BY OCCUPYING POWERS, BUT EMPHASIZE THE FACT OF DELIVERY TO OCCUPYING POWERS IN WEST BERLIN AS IN FOLLOWING KEY PASSAGE FROM PAGE 215: QUOTE BEGINNING JANUARY 1, 19968 THE FOLLOWING REGULATIONS CONCERNING TURNOVER TAX WILL BE IN EFFECT FOR THOSE CONTRACTORS SITUATED IN BERLIN (WEST) WHO RENDER DELIVERIES AND OHTER SERVICES TO THE OCCUPYING POWERS IN BERLIN (WEST): I - DELIVERIES AND OTHER SERVICES TO THE OCCUPYING POWERS IN

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BERLIN (WEST) ARE EXEMPT FROM TURNOVER TAX ... UNQUOTE.

REMAINDER OF TEXT OF NOTICES CONTAINED PAGE 215 AND PAGE 624 PLACE NO CONDITIONS ON AND MAKE NO MENTION OF OCCUPYING POWERS' USE OF DELIVERIES OR SERVICES ONCE RENDERED. MISSION WOULD PREFER NOT TO NEGOTIATE ADOPTION OF NEW LANGUAGE TO BE PLACED ON ITS PURCHASE ORDERS WHICH WOULD CREATE A RESTRICTION WHICH DOES NOT EXIST IN TAX NOTICES WHICH GRANT EXEMPTION FROM VAT.

2. IN LIGHT OF LANGUAGE CITED ABOVE, WE BELIEVE MISSION COULD UNDER EXISTING PROCEDURES MAKE TAX-FREE PURCHASES OF GOODS FOR EMBASSY BERLIN, AND ACCEPT DELIVERY OF GOODS FOR FURTHER TRANSFER TO EMBASSY BERLIN, WITHOUT VIOLATION OF TERMS OF TAX NOTICE AND WITHOUT MISREPRESENTATION AS TO DESTINATION OF GOODS. IT WOULD APPEAR ALSO THAT WE COULD LEGITIMATELY PURCHASE SERVICES FOR EMBASSY BERLIN IF SUCH SERVICES COULD BE RENDERED IN WEST BERLIN, E.G. REPAIR OF MOVABLE EQUIPMENT, BUT THAT SERVICES RENDERED IN EAST BERLIN COULD NOT COME UNDER PROVISIONS OF TAX NOTICE. GEORGE

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